IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 12284 of 2005(K)

PETITIONERS:

1. **P.SREEDHARAN, SECURITY GUARD, ARALAM FARM, KANNUR DISTRICT.**
2. **T.MARY, MUSTER WORKER, BLOCK NO.3, ARALAM FARM, KANNUR DISTRICT.**
3. **BIJU VARGHESE, MUSTER WORKER, BLOCK NO.12, ARALAM FARM, KANNUR DISTRICT.**
4. **M.M.ABRAHAM, MUSTER WORKER, BLOCK NO.12, ARALAM FARM, KANNUR DISTRICT.**
5. **C.K.SUBHADRA, MUSTER WORKER, BLOCK NO.1, ARALAM FARM, KANNUR DISTRICT.**
6. **M.SUKUMARAN, SECURITY GUARD, ARALAM FARM, KANNUR DISTRICT.**
7. **P.D.PUSHPAVALLI, MUSTER WORKER, BLOCK NO.4, ARALAM FARM, KANNUR DISTRICT.**

BY ADV. SRI.K.BALACHANDRAN
SRI.RAJESH NAIR
SRI.BIJOY CHANDRAN

W.P.(C) NO. 12284/2005

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY, S.C. & S.T.DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **ARALAM FARM, (GOVERNMENT OF KERALA), REPRESENTED BY ITS ADMINISTRATOR, ARALAM FARM P.O., PERAVOOR VIA, PIN-670 673, KANNUR DISTRICT.**

3. **THE ADMINISTRATIVE OFFICER, ARALAM FARM, ARALAM FARM P.O., PERAVOOR VIA, PIN-670 673, KANNUR DISTRICT.**

BY ADV. SMT.P.K.SANTHAMMA – R2- R3
GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/07/2007, ALONG WITH WPC NO. 24187 OF 2006 WPC NO. 8847 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER DT. 24.6.04 ISSUED BY DY.CHIEF. ADMN. OFFICER, S.T.C.I.

EXTP2:- COPY OF THE VOLUNTARY RETIREMENT SCHEME DT. 10/12.3.2000 ANNOUNCED BY THE STFI .

EXT.P3:- COPY OF THE LETTER DT. 30.3.2000.

EXT.P4:- COPY OF THE LETTER DT. 29.8.2000.

EXT.P5:- COPY OF THE LETTER DT. 3.3.05. SENT BY THE 1ST PETITIONER TO THE 3RD RESPONDENT.

EXT.P6:- COPY OF THE LETTER DT. 27.1.05 SENT BY THE 4TH PETITIONER TO THE 3RD RESPONDENT.

EXT.P7:- COPY OF THE LETTER DT. 10.3.05 OF THE 3RD RESPONDENT TO THE 1ST PETITIONER.

EXT.P8:- COPY OF THE LETTER DT. 2.2.05 OF THE 3RD RESPONDENT TO THE 4TH PETITIONER.

EXT.P9:- COPY OF THE LETTER DT. 18.12.04 OF THE 3RD RESPONDENT TO THE 5TH PETITIONER.

EXT.P10:- COPY OF THE CIRCULAR DT. 5.3.05 ISSUED BY THE 2ND RESPONDENT.

EXT.R2 a-1:- COPY OF THE OF VRS OPTION DT. 14.5.03/2-6-03 SUBMITTED SHRI.P.SREEDHARAN, SG.

EXT.R2 a-2:- COPY OF THE VRS CALCULATION SHEET OF SHRI P.SREEDHARAN DT. 26.6.06.

EST.R2a -3:- COPY OF THE VRS WITHDRAWN APPLICATION DT. 3.3.05 OF SHRI P.SREEDHARAN.

EXT.R2a-4:- COPY OF THE REPLY DT. 10.3.05 GIVEN TO SHRI.P.SREEDHARAN.

EXT.R2 a- 5:- COPY OF THE OF VSS OPTION SUBMITTED BY SMT.T.MARY, WORKER DT. 24.6.02.

EXT.R2 a-6:- VSS CALCULATION SHEET OF SMT.T.MARY.

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EXTR2 a-7:- COPY OF THE VSS OPTION OF SHRI.BIJU VARGHESE DT. 20.12.02.

EXT.R2 a- 8:- COPY OF THE VSS OPTION OF SHRI.M.M.ABRAHAM, WORKER DT. 14.11.02.

EXT.R2a-9:- COPY OF THE VSS CALCULATION SHEET OF SHRI.M.M.ABRAHAM DT. 25.11.02.

EXT.R2 a-10:- COPY OF THE VSS WITHDRAWN APPLICATION OF SHRI.M.M.ABRAHAM. DT. 27.1.05.

EXT.R2a-11:- COPY OF THE REPLY TO M.M.ABRAHAM DT. 2.2.05.

EXTR2a-12:- COPY OF THE VSS OPTION SUBMITTED BY SMT.C.K.SUBHADRA, WORKER DT. 21.4.03.

EXT.R2a-13:- COPY OF THE VSS CALCULATION SHEET OF SMT.C.K.SUBHADRA DT. 21.6.03.

EXT.R2a14:- COPY OF THE VSS WITHDRAWAL APPLICATION OF SMT.SUBHADRA DT. 10.12.04.

EXT.R2a-15:- COPY OF THE REPLY TO SMT.C.K.SUBHADRA, DT.18.12.04.

EXT.R2(a-16:- COPY OF THE VRS OPTION SUBMITTED BY SHRI.M.SUKUMARAN SG DT. 7.7.03.

EXT.R2a-17:- COPY OF THE VRS CALCULATION SHEET OF SHRI.M.SUKUMARAN DT. 30.7.03.

EXT.R2a-18:- COPY OF THE VRS WITHDRAWAL APPLICATION OF SHRI.M.SUKUMARAN DT. 14.3.05.

EXT.R2a-19:- COPY OF THE VSS OPTION SUBMITTED BY SMT. P.D.PUSHPAVALLI, WORKER DT. 16.7.01.

EXT.R2a:20:- COPY OF THE VSS CALCULATION SHEET OF SMT. P.D.PUSHPAVALLI.

EXT.R2a-21:- COPY OF THE VSS WITHDRAWAL APPLICATION OF SMT. P.D.PUSHPAVALLI DT. 12.4.05.

EXT.R2a-22:- COPY OF THE VSS WITHDRAWAL APPLICATION OF SHRI.BIJU VARGHESE DT. 30.3.05.

EXT.R2a-23:- COPY OF THE REPLY GIVEN TO SHRI.BIJU VARGHESE DT. 11.4.05.

/TRUE COPY/

P.A. TO JUDGE

K.BALAKRISHNAN NAIR,J.

WP(C)NOS.12284/05, 8847/06 & 24187/06

Judgment

Writ Petition (C) No.12284/05

The petitioners are employees of Aralam Farm. The Management of the Farm introduced a Voluntary Retirement Scheme, providing for voluntary retirement to its employees. The petitioners applied for voluntary retirement under the said scheme on various dates between 2001 and 2003. But, before those applications were accepted, they submitted representations to withdraw their applications on various dates between 2004 and 2005. The Management rejected the withdrawal applications. In the above background, this Writ Petition was filed and stay of termination of their service was obtained. The petitioners submit, they have a legal right to withdraw their applications before their acceptance. In this case, admittedly, the withdrawal applications were filed, when their applications for voluntary retirement were pending without acceptance.

2. Respondents 2 and 3 have filed a counter affidavit, in which it is submitted that as per the scheme, the option once exercised for voluntary retirement is final. Therefore, the petitioners have no right to claim withdrawal of their applications already submitted for voluntary retirement. So, those applications were rightly

rejected, it is contended.

3. The learned counsel for the 2nd respondent also pointed out that recently, the farm has been entrusted to the Kerala Government and 50% of the farm area is set apart for distribution to members of the Scheduled Tribe and so, the services of most of the employees are no longer required.

4. Heard the learned counsel on both sides. All the Voluntary Retirement Schemes in various establishments provide that once the application is submitted, the same cannot be withdrawn. But, in the face of such conditions, the Apex Court has held that the employee has got a right to withdraw the voluntary retirement application before it is accepted in ***Bank of India v. O.P.Swaranakar*** (2003 AIR SCW 313). In view of the above position, the Writ Petition is allowed. It is declared that the withdrawal applications submitted by the petitioners are valid and shall be allowed by the 2nd respondent. But, the above direction will not affect the powers of the Management of the Farm to take appropriate action in accordance with law to retrench the surplus hands or take any further appropriate action in accordance with law to terminate the services of the employees.

Writ Petition (C) Nos. 8847/06 & 24187/06

5. The point raised by the petitioners herein is covered by the Judgment in Writ Petition (C) No.12284/05. Accordingly, it is ordered that the directions issued in

that Judgment will govern these cases also.

The Writ Petitions are allowed as above.

31.07.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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